

**PT 00-48**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**SUMMIT COMMUNITY  
TASK FORCE,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 00-PT-0048  
(98-16-1201)**

**P.I.N.: 18-24-207-002**

**Real Estate Tax Exemption for  
1998 Assessment Year**

**Alan I. Marcus  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**SYNOPSIS:** This proceeding raises two issues: first, whether the Summit Community Task Force (hereinafter referred to as the "applicant") owned real estate identified by Cook County Parcel Index Number 18-24-207-002 (hereinafter referred to as the "subject property") at any point during the 1998 assessment year; and, second, whether the subject property was "actually and exclusively used for charitable or beneficent purposes" during the 1998 assessment year, as required by Section 15-65 of the Property Tax Code, 35 ILCS 200/1-1 *et seq.*

The controversy arises as follows:

Applicant filed a Property Tax Exemption Complaint with the Cook County Board of Review on January 15, 1999. Dept. Ex. No. 1. The Board reviewed applicant's

complaint and recommended to the Illinois Department of Revenue (hereinafter the "Department") that the requested exemption be denied. Dept Ex. No. 2. After reviewing the Board's recommendation, the Department issued a determination denying the requested exemption on grounds of insufficient documentation. Dept Ex. No. 3. Applicant thereafter filed a timely appeal as to this denial and subsequently presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, it is recommended that the Department's exemption denial be affirmed.

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter and its position therein are established by the admission into evidence of Dept. Ex. Nos. 1, 2 and 3.
2. The Department's position in this matter is that applicant did not submit sufficient documentation to sustain its initial exemption complaint. Dept. Ex. No. 3.
3. The subject property is located at 7533 W. 64<sup>th</sup> Street, Summit, IL 60610 and improved with a building that applicant intended to use as a community center. Dept. Ex. No. 2.
4. Applicant, an Illinois not-for-profit corporation organized for purposes of promoting neighborhood safety in the Summit community, acquired ownership of the subject property by means of a release deed dated July 18, 1996. Applicant Ex. Nos. 1, 2, 4; Tr. pp. 6-7.
5. The subject property was improved with a dilapidated, vacant building on the date of purchase. Applicant intended to rehabilitate this building and

use it as a community center. However, applicant was unable to proceed with its rehabilitation plans because officials of the Village of Summit (hereinafter the “Village”) advised applicant that the improvement was structurally unsound for its intended purpose. Applicant Ex. No. 6; Tr. p. 11-14.

6. Applicant transferred ownership of the subject property to the Village in July of 1997 and did not hold any ownership interest in the subject property after it effectuated that transfer. Tr. pp. 14 –17.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that this applicant has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1998 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the subject property does not qualify for exemption from 1998 real estate taxes under 35 ILCS 200/15-65 should be affirmed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code, (35 ILCS 200/1-1 *et seq*). The provisions of that statute which govern disposition of this case are found in Sections 200/15-65(a), which, in pertinent part, provides for exemption of the following:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity.

35 ILCS 200/15-65(a).

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. People Ex Rel. Nordland v. the Association of the Winnebago Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof on the party seeking exemption, and have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4th Dist. 1994).

Here, the relevant statutory exemption pertains to "institutions of public charity". The statutory requirements for this exemption are: (1) exempt ownership, which means that the property must be owned by an entity that qualifies as an "institution of public charity[;]" and, (2) exempt use, which, in this context, means that the subject property was actually<sup>1</sup> used for some specifically identifiable exempt purpose during the tax year in question. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968).

This applicant did not hold any ownership interest in the subject property at any point during the tax year currently in question, which is 1998. Absent such an interest, Section 9-175 of the Property Tax Code, which states that "[t]he owner of property of property on January 1 in any year shall be liable for the taxes of that year ...[.]" (35 ILCS 200/9-175 ), relieves applicant of liability for that year's taxes on the subject

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1. Applicant's actual use of the subject property, and not its intended use thereof, is the determinative factor for purposes of ascertaining conformity with the statutory exempt use requirement. Skil Corporation v. Korzen, 32 Ill. 2d 249 (1965); Comprehensive Training and Development Corporation v. County of Jackson, 261 Ill. App. 3d 37 (5th Dist. 1994).

property. Consequently, applicant lacks a "a direct and substantial interest in the subject matter which would be prejudiced by [the denial of a property tax exemption for that tax year] or benefited by [the granting of same]." Highland Park Women's Club v. Department of Revenue, 206 Ill. App.3d 447 (2nd Dist. 1991). Therefore, applicant lacks standing to seek that exemption herein.

It is well-settled that each tax year constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4<sup>th</sup> Dist. 1980); Jackson Park Yacht Club v. Department of Local Government Affairs, 93 Ill. App.3d 542 (1st Dist. 1981); Fairview Haven v. Department of Revenue, 153 Ill. App.3d 763 (4<sup>th</sup> Dist. 1987). Hence, applicant may be required to relitigate its entitlement to a property tax exemption on an annual basis. *Id.* Thus, the fact that applicant had standing to raise exemption complaints for tax years prior to the one currently in question, because it owned the subject property during those tax years, is of no legal significance in this proceeding.

Even assuming, strictly for the sake of argument, that this fact did have some legal significance, it would not overcome the fact that applicant itself made no use of the subject property throughout 1998. Consequently, I fail to see any scenario under which applicant could have actually used that property for any purposes, "charitable" or otherwise, during that tax year. Therefore, it was factually impossible for the subject property to have satisfied the statutory exempt use requirement in 1998.

In summary, this applicant held no ownership interest in the subject property throughout the tax year currently in question, which is 1998. Nor did applicant actually use said property at any point during that tax year. As a result, said property was neither in exempt use, nor in exempt ownership, *as to this applicant* throughout the 1998 assessment year. Therefore, the Department's determination in this matter, denying the subject property exemption from 1998 real estate taxes under Section 15-65 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* should be affirmed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate real estate identified by Cook County Parcel Index Number 18-24-207-002 not be exempt from 1998 real estate taxes under Section 15-65 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

December 8, 2000

Date

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Alan I. Marcus  
Administrative Law Judge